



**DELTA STEWARDSHIP COUNCIL**  
*A California State Agency*

980 NINTH STREET, SUITE 1500  
SACRAMENTO, CALIFORNIA 95814  
WWW.DELTACOUNCIL.CA.GOV  
(916) 445-5511

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October 20, 2014

Nedzlene Ferrario, Senior Planner  
Planning Services Division  
Solano County Department of Resource Management  
675 Texas Street, Suite 5500  
Fairfield, CA 94533

Via email: nnferrario@solanocounty.com

**RE: Honker Bay Conservation Bank Draft Initial Study / Mitigated Negative Declaration, SCH# 2014092063**

Dear Ms. Ferrario:

This letter is in response to the draft Initial Study/Mitigated Negative Declaration (IS/MND) for the Honker Bay Conservation Bank proposed by Wildlands, Inc. As mentioned in the IS/MND, the Delta Stewardship Council (Council) has a legally enforceable management framework for the Delta and Suisun Marsh called the Delta Plan. We reviewed the draft IS/MND and have determined that the proposed action to restore 112 acres of tidal marsh on the north side of Honker Bay may be a "covered action" subject to Delta Plan regulations, although that determination ultimately resides with Solano County.

Consequently, we have identified below issues that we believe you should consider, including several Delta Plan policies which are backed with enforceable regulatory authority:

- **Habitat Restoration.** Delta Plan Policy **ER P2** (23 CCR Section 5006) states that habitat restoration must be consistent with Appendix 3 of the Delta Plan regulations and that restoration will occur at appropriate elevations. Consider the site information in the IS/MND or other site-specific details as well as the elevation map included as Appendix 4 of the Delta Plan to confirm that tidal marsh restoration is suitable for the Honker Bay Conservation Bank project at the Atlantis Duck Club (Club 902).
- **Invasive Species.** Delta Plan Policy **ER P5** (23 CCR Section 5009) calls for avoiding introductions and habitat improvements for invasive nonnative species. This policy states that "The potential for new introductions of or improved habitat conditions for nonnative invasive species, striped bass, or bass must be fully considered and avoided or mitigated in a way that appropriate protects the ecosystem." Analysis on this matter should address both nonnative wildlife species (e.g., introduced sport fish species), as well as nonnative vegetation, including both aquatic and terrestrial weeds.
- **Land Use Conflicts.** Delta Plan Policy **DP P2** (23 CCR Section 5011) states that plans for ecosystem restoration must be sited to avoid or reduce conflicts with existing uses when feasible, considering

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*"Coequal goals" means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place."*

– CA Water Code §85054

comments from local agencies and the Delta Protection Commission. An example of an issue pertinent to this policy is the potential for a project to increase flood risk on neighboring properties or infrastructure, such as the Roaring River Distribution System. We encourage you to consult with the Department of Water Resources regarding these risks. Furthermore, there is a fuel pipeline that runs beneath Wheeler Island. We encourage coordination with the owners of the pipeline to ensure that the design of the restoration project will allow for continued access to the pipeline for its future maintenance.

- **Best Available Science and Adaptive Management.** Delta Plan Policy **G P1** (23 CCR Section 5002) states that actions subject to Delta Plan regulations must document use of best available science. Additionally, this policy calls for ecosystem restoration projects to include adequate provisions for continued implementation of adaptive management, appropriate to the scope of the action. This requirement can be satisfied through the development of an adaptive management plan that is consistent with the framework described in Appendix 1B of the Delta Plan, along with documentation of adequate resources to implement the proposed adaptive management process.
- **Mitigation Measures.** Delta Plan Policy **G P1** also requires that actions not exempt from CEQA and subject to Delta Plan regulations must include applicable feasible mitigation measures consistent with or more effective than those identified in the Delta Plan Environmental Impact Report (EIR). The proposed project could result in impacts to biological resources, particularly during the construction work phase, as well as potentially increase mosquito production if the project results in ponding water. The Delta Plan's Program EIR provides a list of mitigation measures to address biological resource impacts and vector control management that Solano County should consider. (See Measures 4-1 through 4-5 and Mitigation Measure 14-3 in the Delta Plan's Mitigation and Monitoring Reporting Program.)
- **Water Quality Impacts.** Delta Plan Recommendation **WQ R1** states that water quality in the Delta should be maintained to protect beneficial uses identified in applicable State Water Resources Control Board or regional water quality control board water quality control plans. Additionally, Delta Plan Recommendation **WQ R2** states that Delta Plan covered actions should identify any significant impacts to water quality. Although the Delta Plan recommendations are non-regulatory, the Council hopes that all proposed projects within the Delta are consistent with the entire framework of the Delta Plan.

Although the IS/MND claims that the effect of the project on salinity in the Delta would be less than significant, previous hydrodynamic modeling indicates that tidal inundation of Wheeler Island and other areas in the southeastern portion of the Suisun Marsh will, depending on the design, change the Delta salinity regime of the Delta one way or another. Over the course of the next three decades, it is expected there will be substantial tidal marsh restoration in the vicinity of the Honker Bay Conservation Bank. Restoration is expected under the Suisun Marsh Habitat Management, Preservation, and Restoration Plan (Suisun Marsh Plan or SMP) which calls for restoration of 1,720-2,580 acres in Region 4 of the SMP, which encompasses the southeastern portion of the Suisun Marsh including Wheeler and Grizzly Islands. These projects could collectively impact the quality of drinking and irrigation water in the Delta, if they each proceed without careful analysis of their impacts on salinity. We recommend that Solano County coordinate with other restoration project proponents to enlist the use of hydrodynamic modeling to evaluate the impact on salinity from the Honker Bay Conservation Bank project, along with cumulative impacts of nearby proposed tidal marsh restoration projects, such as the Mallard Farms Conservation Bank and the Tule Red Restoration Project.

- **Inconsistencies with the Delta Plan.** The IS/MND should discuss any inconsistencies between the proposed project and the Delta Plan, as required by 15125(d) of the California Environmental Quality Act (CEQA) Guidelines. Please note that the CEQA Guidelines' Appendix G states that a project that is inconsistent with any applicable land use plan, policy, or regulation may result in a finding of significant impact on biological resources.

### **Delta Plan Covered Actions and Certifications of Consistency**

Through the Delta Reform Act, the Council was granted specific regulatory and appellate authority over certain actions that take place in whole or in part in the Delta and Suisun Marsh. The Council exercises that authority through development and implementation of the Delta Plan. State and local agencies are required to comply with the set of 14 regulatory policies contained within the Delta Plan.

According to the Delta Reform Act, it is the state or local agency approving, funding, or carrying out the project that must determine if a project is a "covered action" subject to regulations of the Delta Plan, and if so, certify consistency of the project with Delta Plan policies (Water Code Section 85225). Generally the CEQA lead agency, Solano County in the case of the Honker Bay Conservation Bank project, makes the determination if a project is a covered action. If the project is determined to be a covered action, Solano County will need to complete a certification of consistency that demonstrates that the project is consistent with the regulatory policies of the Delta Plan. (Please refer to our website at <http://deltacouncil.ca.gov/covered-actions> for more information about the covered action process.) Information and analysis needed to support a consistency certification could pull information directly from the IS/MND and the interim and long-term management plans developed for the bank enabling instrument.

### **Early Consultation**

The Council strongly encourages all agencies who propose to approve, fund, or carry out an action in the Delta, as early in the project's development as possible, consult with the Council and ensure the project (whether it is a covered action or not) is consistent with the Delta Plan. If Solano County staff and the project proponent choose to engage in early consultation, the Council staff will meet with you and offer guidance on determining whether the project meets the definition of a covered action, provided that the ultimate determination in this regard must be made by the County. Council staff will also work you and the project proponent to ensure consistency between the project and the Delta Plan's policies and recommendations. We also can help guide you through the certification process.

As stated above, Delta Plan Policy **G P1** requires that restoration projects document use of best available science and include an adaptive management plan when filing a certification of consistency with the Delta Plan. We recommend that adaptive management for this project incorporate a monitoring, evaluation and reporting program that evaluates whether the project is successfully achieving the goals and objectives for the project. Delta Stewardship Council staff, including staff from the Delta Science Program, can provide early consultation to help in your preparation of documentation of use of best available science and adaptive management.

We also encourage you to present your proposed project to the Suisun Marsh Adaptive Management Advisory Team (AMAT). This group consists of staff of several federal, state and local agencies who can provide input on

Nedzlene Ferrario  
Solano County Department of Resource Management  
October 20, 2014  
Page 4

your project design from both scientific and regulatory perspectives. The AMAT is co-chaired by the Council and the California Department of Fish and Wildlife.

### **Next Steps**

I encourage you to contact Jessica Davenport at [jdavenport@deltacouncil.ca.gov](mailto:jdavenport@deltacouncil.ca.gov) or (916) 445-2168 with your questions, comments, or concerns. We would like to work with you to ensure consistency of the Honker Bay Conservation Bank with the Delta Plan while also avoiding, minimizing, or mitigating potential environmental impacts. We looked forward to continued coordination with you.

Sincerely,

A handwritten signature in blue ink that reads "Cindy Messer".

Cindy Messer  
Deputy Executive Officer

Cc Steve Chappell, Suisun Resource Conservation District  
Jim Starr, California Department of Fish and Wildlife  
Bob Batha, San Francisco Bay Conservation and Development Commission  
Dean Messer, Department of Water Resources  
Kim Turner, U.S. Fish and Wildlife Service